IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6574 of 2007()

[CRIME NO.202/2006 OF CHAKKARAKKAL POLICE STATION]

---

: PETITIONER/ACCUSED

---

N.G.SURENDRAN, S/O.GOVINDAN, AGED 40 YEARS, MAMBIARKUDIYIL HOUSE, ARALAM, KOOTTAKULAM, THALASSERI TALUK, KANNUR.

BY ADV. SRI.H.BADARUDDIN
SRI.C.A.JOSEPH

RESPONDENTS: COMPLAINANT & STATE

---

1. SUB INSPECTOR OF POLICE, CHAKKARAKAL POLICE STATION, KANNUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

**----------**

B.A.No.6574 of 2007

---

Dated this the 6th day of November 2007

**O R D E R**

Application for anticipatory bail. The petitioner is arrayed as the first accused. Altogether there are three accused persons. They face allegations under the Kerala Abkari Act. The police allegedly received information about the transportation of illicit liquor in a vehicle. Attempt was made to stop the vehicle. The vehicle was not stopped. The vehicle sped away. The police attempted to chase the vehicle. After a long chase, the driver and cleaner who were present in the vehicle abandoned the vehicle and took to their heels. Their identity could not be ascertained at the spot. 210 x 35 litres of spirit were allegedly available in the vehicle. The vehicle and the contraband article was seized on 21/10/2006. F.I.R was registered. In the F.I.R, there is no clue about the identity of the driver and the cleaner. The driver is arrayed as the first accused and the cleaner as the second accused. Later the investigation has revealed the identity of the owner, a person having his address at Bangalore. He is absconding. He has not been arrested so far.

2. Though at the scene, no clue could be gathered about the identity of the first accused/driver or the second accused/cleaner, in the course of investigation, the investigator was able to trace a witness who had seen the petitioner running away from the vehicle when it was intercepted. That person gave the name of the petitioner as the driver of the vehicle. Further investigation continued in that direction. The house of the petitioner was searched and in such search, certain documents relating to the vehicle were seized from the house of the petitioner. It is, therefore, that the petitioner was arrayed as the first accused. Investigation is continuing. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has nothing to do with the crime in question. He is being vexed and harassed unnecessarily now. The learned counsel for the petitioner submits that the name of the petitioner is not shown in the contemporaneous document or in the F.I.R. In these circumstances, the subsequent raising of allegations against the petitioner is not justified, contends the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the

application. The learned Public Prosecutor submits that two important inputs have been collected against the petitioner. One is the statement of a witness at the scene of the crime, who was traced lateron. He stated that the petitioner was one of the persons who ran away from the vehicle. Another input available is a document relating to the vehicle recovered from the house of the petitioner. These two circumstances compellingly direct the needle of suspicion at the petitioner. He has to be arrested and interrogated. Such interrogation is absolutely necessary for a proper investigation of the crime. The petitioner may not, in these circumstances, be granted anticipatory bail, submits the learned Public Prosecutor.

5. I shall avoid any detailed discussion on merits about the acceptability of the allegation or the credibility of the data collected. Suffice it to say that I am satisfied that there are no circumstances available in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I am dissatisfied with the tardy progress made by the investigator in this crime detected as early as on 21/10/2006. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and

ordinary course. I am unable to accept the contention of the learned counsel for the petitioner that merely because the name of the miscreants is not shown in the F.I.R or in the seizure mahazer, the subsequent ascertainment of the name of the petitioner as one who ran away from the scene of the crime must be discarded at this stage.

6. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

**(R.BASANT, JUDGE)**

jsr

// True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007